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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,482	01/27/2004	John H. Shadduck	S-ECI-021	9552

7590 10/19/2004
JOHN H. SHADDUCK
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EXAMINER

FARAH, AHMED M

ART UNIT PAPER NUMBER

3739

DATE MAILED: 10/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/765,482

Applicant(s)

SHADDUCK, JOHN H.

Examiner

Ahmed M Farah

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Latina U.S. Patent No. 5,549,596 in view of Lin U.S. Patent Application, Pub. No.: US 2004/0039378 A1. Latina discloses laser treatment system and method for treating glaucoma, the method comprising the steps of:

introducing exogenous chromophore particles within the intratrabecular spaces of the meshwork (Col. 2, line 22 and claims 10-12); and

irradiating the exogenous chromophore particles with short pulses of laser beams having a wavelength, power, and pulse duration that is absorbed by the chromophores (Col. 2, lines 45-49).

The exogenous chromophore particles introduced within the intratrabecular spaces of the meshwork is selected from the

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group consisting of india ink or any other nontoxic dyes (Col. 5, lines 17-20).

As to claims 2 and 3, mechanical energy (propagation of energy to the fluids surrounding the energized particles) is delivered to the meshwork media.

As to claims 5 and 13, the present application explain in the background (Description of Related Art section, page 7, lines 14-15) that the diameters of melanin granules, which is analogous in size to the exogenous particles used by Latina, are approximately 10 nm.

As to claims 7, 8 and 13, Latina uses the second harmonic frequency (532 nm) of YAG laser. This wavelength falls within the wavelength range of the instant claims.

However, although Latina teaches various types of light absorbing chromophores, he does not teach the use of a chromophore comprising gold particles. Lin discloses an alternative ophthalmic treatment device and methods of use for selective photocoagulation of particular cells by introducing a light absorbing chromophore into cells prior to laser irradiation, the light absorbing chromophore selected from a group consisting of carbon-black, gold, iron oxide, etc. (paragraph 0021).

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Therefore, it would have been obvious to one skilled in the art at the time of the applicant's invention to modify Latina in view of Lin to use a chromophore comprising gold particles as an equivalent alternative light absorbing material.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See the following references:

U.S. Patent 6,059,772 to Hsia et al. disclose apparatus and methods for treating open angle glaucoma in a human eye by thermally abating targeted regions in trabecular meshwork.

U.S. Patent 4,391,275 to Fankhauser et al. disclose method for treating eye disorders, particularly glaucoma, by inducing mechanical waves into the anterior chamber of the eye.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed M Farah whose telephone number is (703) 305-5787. The examiner can normally be reached on Mon-Thur. 9:30 AM-7:30 PM, and 9:30 AM - 6:30 PM on every other Friday.

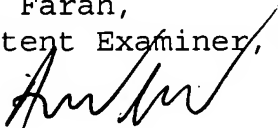
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda C.M DVorak can be reached on (703) 308-0994. The fax phone number for the

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organization where this application or proceeding is assigned is
703-872-9306.

Information regarding the status of an application may be
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access to the Private PAIR system, contact the Electronic
Business Center (EBC) at 866-217-9197 (toll-free).

A. Farah,
Patent Examiner, AU 3739


10/16/2004.